

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Release of Maintenance Agreement w/ Letter of Credit – Butler Ridge f/k/a
Kenmure

DEPARTMENT: Environmental Services **DIVISION:** Business Office

AUTHORIZED BY: [Signature] **CONTACT:** RB **EXT.** 2148
Dr. John Cirello, Director Bob Briggs, Finance Manager

Agenda Date 3/14/06 **Regular** ☐ **Consent** ☒ **Work Session** ☐ **Briefing** ☐
Public Hearing – 1:30 ☐ **Public Hearing – 7:00** ☐

MOTION/RECOMMENDATION:

Approve release of original Water and Sewer Maintenance Agreement w/ Letter of Credit

BACKGROUND:

The following project has satisfactorily completed the two (2) year maintenance inspection by the Water and Sewer Division.

Release Maintenance Agreement w/ Letter of Credit #SM206883W (Butler Ridge Development) in the amount of \$50,590.41 for the project known as Butler Ridge f/k/a Kenmure. District 1 - Dallari.

Reviewed by:	
Co Atty: N/A	
DFS:	
Other:	
DCM:	<u>[Signature]</u>
CM:	<u>[Signature]</u>
File No.	<u>CESA02</u>



Butler Ridge Development, Inc.

557 North Wymore Road Suite 102, Maitland, FL 32751 * (407) 667-0100 * Fax (407) 667-0116

February 13, 2006

Ms. Becky Noggle
Seminole County Environmental Services
500 W. Lake Mary Blvd.
Sanford, Florida 32773

RE: Butler Ridge/Kenmure
Bond No./LC No. SM206883W
Bond Amount: \$50,590.41

Dear Ms. Noggle:

In accordance with the letter from Mr. Chip Tyre dated February 9, 2006, we are hereby requesting that you release the above referenced bond.

Thank you for your attention to this matter on our behalf.

Sincerely yours,
BUTLER RIDGE DEVELOPMENT, INC.

Ellsworth G. Gallimore
President

EKG:lw

ENVIRONMENTAL SERVICES DEPARTMENT



February 9, 2006

Butler Ridge Development, Inc.
557 North Wymore Rd., Suite 102
Maitland, FL 32751

Re: Water and Sewer Maintenance Agreement w/ Letter of Credit

Project Name: Kenmure
LOC# SM206883W
Amount: \$50,590.41
District #1

To Whom It May Concern:

Pursuant to Seminole County's Land Development Code (LDC) requirements, Chapter 35, Part 8, Sec. 35.902 (H) (1,2) the County conducted an inspection of the referenced project on **2/8/06** to insure that any maintenance problems or design deficiencies which manifested themselves during the maintenance period were addressed prior to expiration of the Bond.

As of **2/8/06**, the Seminole County Water and Sewer Inspector found no deficiencies. Therefore, the above mentioned Water and Sewer Maintenance Bond may be released as required by the LDC.

In writing, please contact Becky Noggle, 500 W Lake Mary Blvd, Sanford, FL 32773; phone, 407-665-2143 to request the release of the Letter of Credit or Bond. LOC/Bonds are to be released by the Board of County Commissioners through a regular board session.

If you have any questions, please contact Becky Noggle @ 407-665-2143.

Sincerely,

Chip Tyre
Sr. Utilities Inspector

c: Project File

SUBDIVISION AND SITE PLAN

MAINTENANCE AGREEMENT
(Water and Sewer Improvements)

THIS AGREEMENT is made and entered into this 6th day of February, ~~XX~~ 2004 between BUTLER RIDGE DEVELOPMENT, INC., hereinafter referred to as "PRINCIPAL," and SEMINOLE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY."

W I T N E S S E T H:

WHEREAS, PRINCIPAL has constructed certain water and sewer improvements, including water lines, sewer lines, lift stations and other appurtenances in that certain subdivision described as KENMURE, a Plat of which is recorded in Plat Book 64 Pages 13 thru 19, Public Records of Seminole County, Florida; and

WHEREAS, the aforesaid water and sewer improvements were made pursuant to certain plans and specifications dated May 2, 2003, ~~XX~~, (as subsequently revised or amended) and filed with the Utilities Manager of Seminole County; and

WHEREAS, PRINCIPAL is obligated to protect the COUNTY against any defects resulting from faulty materials or workmanship of said road improvements and to maintain said water and sewer improvements for a period of two (2) years from February 6, 2004, ~~XXXXXX~~; and

WHEREAS, to guarantee performance of said obligations by PRINCIPAL, PRINCIPAL has obtained and furnished to the COUNTY, a certain Irrevocable Letter of Credit No. SM206883W issued by WACHOVIA BANK, NATIONAL ASSOCIATION, in the sum of Fifty Thousand Five Hundred Ninety & 41/100 DOLLARS (\$50,590.41).

NOW THEREFORE, the COUNTY agrees to accept the water and sewer improvements into the County Utility System upon execution of this Agreement and to accept an Irrevocable Letter of Credit as security for the maintenance obligation of the PRINCIPAL.

PRINCIPAL, its heirs, executors, successors and assigns, jointly and severally agrees to be held and firmly bound to the COUNTY in the sum of Fifty Thousand Five Hundred Ninety and 41/100----- DOLLARS (\$50,590.41) on the condition that, if PRINCIPAL shall promptly and faithfully protect the COUNTY against any defects resulting from faulty materials or workmanship of the aforesaid water and sewer improvements and maintain said water and sewer improvements for a period of two (2) years from February 6, 2004 ~~XXXXXXXXXX~~, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

The Utilities Manager shall notify the PRINCIPAL in writing of any defect for which the PRINCIPAL is responsible and shall specify in said notice a reasonable period of time within which PRINCIPAL shall have to correct said defect.

Should the PRINCIPAL fail or refuse to perform or correct said defects within the time specified, the COUNTY shall be authorized, but shall not be obligated, to take over and perform, or cause to be performed, such work as shall be necessary to correct such defects, and shall be authorized to draw upon the Letter of Credit to pay the cost thereof, including, but not limited to, engineering, legal and contingent costs. Further, the COUNTY, in view of the public interest, health, safety, welfare and other factors involved, and the consideration in approving and filing the said Plat shall have the right to resort to any and all legal remedies against the PRINCIPAL, both at law and in equity, including specifically, specific performance, to which the PRINCIPAL unconditionally agrees.

The PRINCIPAL further agrees that the COUNTY, at its option, shall have the right to correct said defects resulting from faulty materials or workmanship, or, pursuant to public advertisement and receipt of bids, cause to be corrected any defects or said defects in case the PRINCIPAL shall fail or refuse to do so, and, in the event the COUNTY should exercise and give effect to such right, the PRINCIPAL shall be obligated hereunder to reimburse the COUNTY the total cost thereof, including, but not limited to, engineering, legal and contingent costs, together with any damages, either direct or consequent, which may be sustained on account of the failure of the PRINCIPAL to correct said defects.

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof.

Signed, sealed and delivered
in the presence of:

BUTLER RIDGE DEVELOPMENT, INC.

Louise A. Ward
LOUISE A. WARD

Rosa M. Vark
ROSA M. VARK

By: Ellsworth G. Gallimore
Ellsworth G. Gallimore, President

Date: Feb 6, 2004

WITNESSES:

Rock N. [Signature]
[Signature]

UTILITIES DIVISION
SEMINOLE COUNTY, FLORIDA

[Signature]
Utilities Manager

Date: 3/9/04

Within authority delegated by the County Manager pursuant to Resolution No. 97-R-66 adopted March 11, 1997 and further delegated by Memorandum dated March 27, 1997, Re: Streamlining of Development-Related Agenda Items and approved on April 2, 1997.

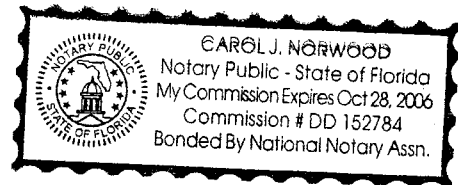
STATE OF)
COUNTY OF) ss

The foregoing instrument was acknowledged before me this 9 day of March, 2004, by Gary Lee Rudolph, who is personally known to me or who has produced _____ as identification.

Carol J. Norwood
Print Name CAROL J. Norwood
Notary Public in and for the County
and State Aforementioned

My commission expires: 10/28/06

P:\USERS\ROGER\PM\LDCH071
Rev. 05/30/97



WACHOVIA

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER SM206883W

LETTER OF CREDIT AMOUNT	ISSUE DATE	EXPIRY DATE
USD 50,590.41	02/05/04	02/05/06

BENEFICIARY:
SEMINOLE COUNTY BOARD OF COUNTY
COMMISSIONERS
1101 EAST FIRST STREET
SANFORD, FL 32771

APPLICANT:
BUTLER RIDGE DEVELOPMENT INC.
557 NORTH WYMORE ROAD
SUITE 102
MAITLAND FL 32751

GENTLEMEN:

BY ORDER OF BUTLER RIDGE DEVELOPMENT INC., WE HEREBY ESTABLISH AN IRREVOCABLE LETTER OF CREDIT IN YOUR FAVOR. WE HEREBY AUTHORIZE YOU TO DRAW ON WACHOVIA BANK, NATIONAL ASSOCIATION UP TO AN AGGREGATE AMOUNT OF \$50,590.41 AVAILABLE BY PAYMENT WHEN ACCOMPANIED BY THE FOLLOWING DOCUMENTS

1. A DRAFT AT SIGHT DRAWN ON WACHOVIA BANK, NATIONAL ASSOCIATION, DULY ENDORSED ON ITS REVERSE SIDE THEREOF BY THE BENEFICIARY, STATING, "DRAWN UNDER IRREVOCABLE LETTER OF CREDIT NO. SM206883W OF WACHOVIA BANK, NATIONAL ASSOCIATION DATED FEBRUARY 05, 2004."
2. THE ORIGINAL LETTER OF CREDIT PLUS ANY AND ALL AMENDMENTS ATTACHED THERETO.
3. A DATED STATEMENT ISSUED ON THE LETTERHEAD OF THE BENEFICIARY AND PURPORTEDLY SIGNED BY AN AUTHORIZED REPRESENTATIVE STATING THAT:
THAT CERTAIN PRIVATE ROAD MAINTENANCE AGREEMENT DATED FEBRUARY 06, 2004 BETWEEN BUTLER RIDGE DEVELOPMENT INC., AND SEMINOLE COUNTY IS IN DEFAULT.

DEVELOPMENT, INC THE BANK AGREES THAT THIS LETTER OF CREDIT SHALL AUTOMATICALLY EXTEND ITSELF FOR SUCCESSIVE ONE-YEAR PERIODS UNLESS WE SEND THE BENEFICIARY WRITTEN NOTICE NO LATER THAN AT LEAST FORTY-FIVE (45) DAYS PRECEDING EXPIRATION DATE THAT IT CHOOSES NOT TO EXTEND THE LETTER OF CREDIT, IN WHICH CASE, THE COUNTY SHALL BE ENTITLED TO DEMAND AND RECEIVE THE OUTSTANDING AMOUNT OF MONEY REPRESENTED BY THIS LETTER OF CREDIT. IN THE EVENT A DRAW BASED ON EXPIRATION OF THIS LETTER OF CREDIT THE PROCEEDS SHALL BE HELD BY SEMINOLE COUNTY AS A CASH BOND TO SECURE CONTINUED ADHERENCE TO THE TERMS OF THAT CERTAIN PRIVATE ROAD MAINTENANCE AGREEMENT WITH BUTLER RIDGE
UPON TENDER OF FULL PAYMENT, YOU WILL RELEASE TO THE BANK THE ORIGINAL IRREVOCABLE LETTER OF CREDIT MARKED "CANCELLED." IN ANY EVENT, UPON EXPIRATION OR AT ANY TIME AFTER THE COMPLETION OF THAT CERTAIN PRIVATE ROAD MAINTENANCE AGREEMENT DATED FEBRUARY 06, 2004 TO THE SATISFACTION OF THE BOARD OF COUNTY COMMISSIONERS EVIDENCED BY A WRITTEN ACCEPTANCE OF THE REQUIRED IMPROVEMENTS COVERED BY THAT CERTAIN PERFORMANCE AND PAYMENT AGREEMENT, YOU WILL RETURN THE ORIGINAL LETTER OF CREDIT TO THIS BANK MARKED "CANCELLED."

WE HEREBY ENGAGE WITH DRAWERS OF ALL DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT, THAT SUCH DRAFTS WILL BE DULY HONORED UPON PRESENTATION TO THE DRAVEE.

CONTINUED ON NEXT PAGE WHICH FORMS AN INTEGRAL PART OF THIS
LETTER OF CREDIT

WACHOVIA

IRREVOCABLE STANDBY LETTER OF CREDIT NO. SM206883W PAGE NO. 2 02/05/04

IF THE BOARD OF COUNTY COMMISSIONERS INITIATES SUIT UNDER THIS LETTER OF CREDIT, THE BANK HEREBY AGREES TO BE RESPONSIBLE FOR SEMINOLE COUNTY'S COURT COSTS AND REASONABLE ATTORNEY'S FEES, BUT THE WACHOVIA BANK, NATIONAL ASSOCIATION SHALL NOT BE RESPONSIBLE FOR ANY ATTORNEY'S FEES IN EXCESS OF FIFTEEN PERCENT (15%) OF THE AGGREGATE AMOUNT OF THIS LETTER OF CREDIT.

DOCUMENTS MAY BE PRESENTED AT EITHER OF OUR FOLLOWING LOCATIONS:

STANDBY L/C DEPT
401 LINDEN STREET
WINSTON-SALEM, NC 27101

OR

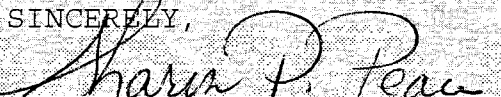
INTERNATIONAL DIVISION
200 S. BISCAYNE BOULEVARD
MIAMI, FL 33131

SHOULD THE BENEFICIARY CHOOSE TO PRESENT AT THE MIAMI ADDRESS THEY MUST ALSO FAX THE DRAWING DOCUMENTS TO 336-735-0950 THE SAME DAY.

THIS LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING AND SUCH UNDERTAKING SHALL NOT, IN ANY WAY, BE AMENDED BY REFERENCE HEREIN TO ANY AGREEMENT, AND ANY SUCH REFERENCE SHALL NOT BE DEEMED TO INCORPORATE HEREIN BY REFERENCE ANY DOCUMENT OR AGREEMENT OTHER THAN THAT CERTAIN PERFORMANCE AND PAYMENT AGREEMENT DATED FEBRUARY 06, 2004 AND REFERENCED HEREIN.

EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES 1998, INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 ("ISP98").

SINCERELY,


AUTHORIZED SIGNATURE
LAM

PLEASE DIRECT ANY CORRESPONDENCE INCLUDING DRAWING OR INQUIRY QUOTING OUR REFERENCE NUMBER TO:

WACHOVIA BANK, NATIONAL ASSOCIATION
401 LINDEN STREET
WINSTON-SALEM, NORTH CAROLINA 27101

OUR CUSTOMER CARE PHONE NUMBER FOR ANY QUERIES IS 800-776-3862
OUR FAX NUMBER IS 336-735-0950